BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE:	Francis A. & Mary Jean Riggs	)
	Map 68N, Group A, Control Map 68K, Parcel 4.01,	) Jefferson County
	S.I. 000 & 001	)
	Map 68N, Group A, Control May 68K, Parcel 5.00	)
	Map 68N, Group B, Control Map 68N, Parcel 3.00,	)
	S.I. 000 & 001	)
	Commercial and Residential Property	)
	Tax Year 2005	)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as set forth in exhibit A.

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on April 13, 2006 in Dandridge, Tennessee. In attendance at the hearing were Mr. and Mrs. Riggs, the appellants, and Jefferson County Property Assessor, Robert Cavanah.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of three parcels located in downtown Dandridge, Tennessee in a predominantly commercial area. Subject buildings were all originally constructed as residences in the 1800's.[1] Parcels 3 and 4.01 are used both residentially and commercially while parcel 5 is utilized entirely commercially.

The taxpayers contended that subject property should be valued as follows:

Parcel 4.01	$210,000
Parcel 5	$150,000
Parcel 3	$225,000 or less

In support of this position, the taxpayers argued that the 2005 countywide reappraisal caused their taxes and appraisals to increase excessively. In addition, the taxpayers asserted that the current appraisals do not achieve equalization given the assessor's appraisals of other properties in the area. Finally, the taxpayers maintained that comparable sales provided to them by a local realtor support their contentions of value.

The assessor contended that subject property should remain valued as set forth in exhibit A. In support of this position, four vacant land sales and four improved sales were introduced into evidence. Mr. Cavanah maintained that the comparables support the current land appraisals on a per front foot basis and the improvements on a per square foot of weighted area.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic

[1] The commercial portion of parcel 4.01 was constructed in 1940.

and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that except for one minor adjustment, subject property should be valued as contended by the assessor. The administrative judge finds that the patio listed on parcel 4.01 should be deleted based upon the unrefuted testimony of the taxpayers.[2]

Since the taxpayer is appealing from the determination of the Jefferson County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the fair market value of subject property as of January 1, 2005 constitutes the relevant issue. The administrative judge finds that the Assessment Appeals Commission has repeatedly rejected arguments based upon the amount by which an appraisal has increased as a consequence of reappraisal. For example, the Commission rejected such an argument in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) reasoning in pertinent part as follows:

> The rate of increase in the assessment of the subject property since the last reappraisal or even last year may be alarming but is not evidence that the value is wrong. It is conceivable that values may change dramatically for some properties, even over so short of time as a year. . .
>
> The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

Final Decision and Order at 2. Similarly, the Commission has ruled in cases such as *John C. & Patricia A. Hume* (Shelby Co., Tax Year 1991) that taxes are irrelevant to the issue of market value.

The administrative judge finds that the taxpayers' comparable sales cannot provide a basis of valuation for two reasons. First, the realtor who selected the comparables was not present to testify or undergo cross-examination.[3] The administrative judge finds that the Assessment Appeals Commission has refused to consider full-blown appraisal reports in similar circumstances. See, e.g., *TRW Koyo* (Monroe Co., Tax Years 1992-1994) wherein the Commission ruled in relevant part as follows:

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[2] The administrative judge finds the taxpayers testified that parcel 4.01 does not contain a patio. The administrative judge finds that the field appraiser responsible for the listing was not present to testify.

[3] Indeed, the taxpayers initially declined to even identify the realtor when asked to do so by Mr. Cavanah.

> The taxpayer's representative offered into evidence an appraisal of the subject property prepared by Hop Bailey Co. Because the person who prepared the appraisal was not present to testify and be subject to cross-examination, the appraisal was marked as an exhibit for identification purposes only. . . .
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> . . . The commission also finds that because the person who prepared the written appraisal was not present to testify and be subject to cross-examination, the written report cannot be considered for evidentiary purposes. . . .

Final Decision and Order at 2. Second, unlike Mr. Cavanah's analysis, the taxpayers' comparables were not sufficiently analyzed to allow one to reach a conclusion of value.[4]

The administrative judge finds that the taxpayer's equalization argument must be rejected. The administrative judge finds that the April 10, 1984, decision of the State Board of Equalization in *Laurel Hills Apartments, et al.* (Davidson County, Tax Years 1981 and 1982), holds that "as a matter of law property in Tennessee is required to be valued and equalized according to the 'Market Value Theory'." As stated by the Board, the Market Value Theory requires that property "be appraised annually at full market value and equalized by application of the appropriate appraisal ratio . . ." *Id.* at 1.

The Assessment Appeals Commission elaborated upon the concept of equalization in *Franklin D. & Mildred J. Herndon* (Montgomery County, Tax Years 1989 and 1990) (June 24, 1991), when it rejected the taxpayer's equalization argument reasoning in pertinent part as follows:

> In contending the entire property should be appraised at no more than $60,000 for 1989 and 1990, the taxpayer is attempting to compare his appraisal with others. There are two flaws in this approach. First, while the taxpayer is certainly entitled to be appraised at no greater percentage of value than other taxpayers in Montgomery County on the basis of equalization, the assessor's proof establishes that this property is not appraised at any higher percentage of value than the level prevailing in Montgomery County for 1989 and 1990. That the taxpayer can find other properties which are more underappraised than average does not entitle him to similar treatment. Secondly, as was the case before the administrative judge, the taxpayer has produced an impressive number of "comparables" but has not adequately indicated how the properties compare to his own in all relevant respects. . . .

Final Decision and Order at 2. See also *Earl and Edith LaFollette*, (Sevier County, Tax Years 1989 and 1990) (June 26, 1991), wherein the Commission rejected the taxpayer's equalization argument reasoning that "[t]he evidence of other tax-appraised values might be relevant if it indicated that properties throughout the county were underappraised . . ." Final Decision and Order at 3.

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[4] Presumably, the realtor engaged in such an analysis, but any such analysis is not in the record.

ORDER

It is therefore ORDERED that values and assessments set forth in exhibit B are hereby adopted for tax year 2005.

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 20th day of April, 2006.

MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Francis & Mary J. Riggs
Robert Cavanah, Assessor of Property

EXHIBIT A

Parcel	Land Value ($)	Improvement Value ($)	Total Value ($)	Assessment ($)
4.01 – 000	59,000	132,900	191,900	47,975
4.01 – 001	0	31,300	31,300	12,520
5	50,000	117,300	167,300	66,920
3 – 000	59,600	144,300	203,900	50,975
3 – 001	0	52,800	52,800	21,120

EXHIBIT B

Parcel	Land Value ($)	Improvement Value ($)	Total Value ($)	Assessment ($)
4.01 – 000	59,000	132,600	191,600	47,900
4.01 – 001	0	31,300	31,300	12,520
5	50,000	117,300	167,300	66,920
3 – 000	59,600	144,300	203,900	50,975
3 – 001	0	52,800	52,800	21,120